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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/593,431	09/18/2006	Matthias Fischer	58219/M521	9891
23363 7590 01/29/2009 CHRISTIE, PARKER & HALE, LLP PO BOX 7068 PASADENA, CA 91109-7068				
EXAMINER ABRAHAM, TANIA				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/593,431

Applicant(s)

FISCHER, MATTHIAS

Examiner

Tania Abraham

Art Unit

3636

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-60 is/are pending in the application.
- 4a) Of the above claim(s) 34, 56 and 57 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-33, 35-41, 43-55 and 58-60 is/are rejected.
- 7) ☒ Claim(s) 42 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 5/22/2007, 9/18/2006
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Election/Restrictions

Applicant's election without traverse of species group B in the reply filed on 12/2/2008 is acknowledged.

Claims 34, 56 and 57 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on December 2, 2008. Please note, while claim 57 was indicated as being drawn to the elected species, its parent claim 56 is drawn to a nonelected species; thus, claim 57 is also drawn to a nonelected species, and is therefore withdrawn from further consideration.

Claim Objections

Claim 60 is objected to because of the limitation --a guide device-- should be inserted after "and" in line 3. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 31-33, 35, 36, 44-51 and 58-60 are rejected under 35 U.S.C. 102(b) as being anticipated by Marinelli (US 2002/0070578). Re claim 31, with reference to

figures 5 and 6, Marinelli discloses a guide device for guiding an adjuster element on an adjuster device for motor vehicles, comprising: a guide track (12) along which the adjuster element is movable; a guide section (13) of the adjuster element via which the adjuster element is guided in the guide track (12); and locking means for locking the guide section in the guide track in at least two adjustment positions spaced apart from one another; wherein the locking means comprise a movably mounted locking element (22) having at least two locking sections (22a, 22b) spaced apart from one another, the locking element being transferable into a locking position in which the locking element, with one (22a) of the locking sections is operable to block the guide section in a first of the at least two adjustment positions (as shown in figure 5) and, with the other one of the locking sections (22b) is operable to block the guide section in a second of the at least two adjustment positions (as shown in figure 6).

Re claim 32, with reference to figure 5, Marinelli discloses the locking element (22) is movable between a release position (shown in phantom) and the locking position; wherein the locking element, in the release position, permits a movement of the guide section (13) in the guide track (12); and wherein the locking element (22), in the locking position, blocks the guide section in the guide track in its respective adjustment position.

Re claim 33, with reference to figure 3, Marinelli discloses the locking element (22) is formed by a pivotally mounted locking lever.

Re claims 35 and 36, with reference to paragraph [0022], Marinelli discloses the locking element (22) is elastically pretensioned in a direction towards the locking

position, and the locking element is transferable into the release position against the action of an elastic pretensioning.

Re claim 44, with reference to paragraph [0009], Marinelli discloses the locking element (22) is arranged in such a way that, at least in the locking position, a weight upon the locking element acts in a direction towards maintaining the locking position.

Re claims 45 and 46, with reference to figures 2 and 4, Marinelli discloses the guide track (12) is formed by a guide link; wherein the guide section (13) of the adjuster element is formed by a guide pin which engages in the guide link.

Re claim 47, with reference to figures 5 and 6, Marinelli discloses the at least two adjustment positions are formed by two end positions of the guide section (13) in the guide track (12).

Re claims 48 and 49, with reference to figures 5 and 6, Marinelli discloses in each of the at least two adjustment positions, the guide section (13) is clamped between a lateral rim of the guide link (12) and one locking section of the locking element (22); and the guide section (13), in each of the at least two adjustment positions, respectively acts upon the associated locking section of the locking element (22) in such a way that the locking element tends to remain in the locking position.

Re claim 50, with reference to figure 6, Marinelli discloses the locking section (22a/22b) is configured as an eccentric.

Re claim 51, with reference to figures 5 and 6, Marinelli discloses the two locking sections of the locking element (22) are formed by lateral end sections (22a, 22b) of the locking element.

Re claims 58 and 59, with reference to paragraph [0001], Marinelli discloses the guide device as serving to guide the adjuster element of the adjuster device for a motor vehicle seat; wherein the adjuster device serves to adjust a backrest (1) of the motor vehicle seat.

Re claim 60, with reference to figures 1-6, Marinelli discloses a seat adjuster device for motor vehicles, comprising a seat part (1) to be adjusted, an adjuster element for adjusting the position of the seat part, and a guide device for guiding the adjuster element, the guide device comprising: a guide track (12) along which the adjuster element is movable; a guide section (13) of the adjuster element via which the adjuster element is guided in the guide track; and locking means for locking the guide section in the guide track in at least two adjustment positions spaced apart from one another; wherein the locking means comprise a movably mounted locking element (22) having at least two locking sections (22a, 22b) spaced apart from one another; wherein the locking element is transferable into a locking position in which it, with one of the locking sections (22a), is operable to block the guide section (13) in a first (figure 5) of the at least two adjustment positions, and with the other one of the locking sections (22b), is operable to block the guide section (13) in a second (figure 6) of the at least two adjustment positions.

Claims 31, 52-53 and 55 are rejected under 35 U.S.C. 102(b) as being anticipated by Schrom (DE 3110130). Re claim 31, with reference to figures 3 and 4, Schrom discloses a guide device for guiding an adjuster element on an adjuster device

for motor vehicles, comprising: a guide track (33) along which the adjuster element is movable; a guide section (15) of the adjuster element via which the adjuster element is guided in the guide track; and locking means for locking the guide section in the guide track in at least two adjustment positions spaced apart from one another; wherein the locking means comprise a movably mounted locking element (34) having at least two locking sections spaced apart from one another, the locking element being transferable into a locking position in which the locking element, with one of the locking sections is operable to block the guide section in a first of the at least two adjustment positions and, with the other one of the locking sections is operable to block the guide section in a second of the at least two adjustment positions.

Re claim 52, Schrom discloses the locking element (34) comprises at least three locking sections (35), each configured to lock the guide section (15) of the adjuster element in a respective adjustment position.

Re claim 53, Schrom discloses at least one locking section (35) is formed by a recess in the locking element (34).

Re claim 54, Schrom discloses one adjustment position corresponds to a position of the guide section (15) between two ends of the guide track (33).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 37-41 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marinelli in view of Mosch et al (DE 10156200). Re claim 37, Marinelli discloses structure as claimed but fails to teach a secondary locking element detaining the locking element in a locking position. However, Mosch et al teaches a guide device for a vehicle seatback comprising a guide track (6), a guide section (4), a locking element (9), and a secondary locking element (14); wherein the secondary locking element (14) is assigned to the locking element with which the locking element (9) is detachable in the locking position, in order to reduce rattling noises by providing a wedge tensioning via the secondary locking element. So it would have been obvious to one of ordinary skill in the art at the time of invention to modify the guide device of Marinelli with a secondary locking element, as taught by Mosch et al, in order to provide a wedge tensioning for reducing rattling noises between the elements of the guide device. Thus, the guide device of Marinelli as modified by Mosch et al would have a secondary locking element assigned to the locking element with which the locking element (9) is detachable in the locking position.

Re claims 38 and 39, Mosch et al teaches the secondary locking element is elastically pretensioned to a position in which it detains the locking element in its locking position and movable out of that pretensioned position, such that the guide device of Marinelli as modified by Mosch et al would have the secondary locking element elastically pretensioned in a direction towards a position in which the secondary locking element detains the locking element in the locking position; wherein the secondary

locking element is movable, against the elastic pretensioning, out of the position in which it detains the locking element in the locking position.

Re claim 40, the guide device of Marinelli as modified by Mosch et al would have the secondary locking element coupled to the locking element in such a way that, through movement of the secondary locking element out of a position in which it detains the locking element, the locking element is brought into a release position; as taught by Mosch et al with reference to the coupling via surface engagement between locking elements (9, 14) shown in figures 2 and 3.

Re claim 41, the guide device of Marinelli as modified by Mosch et al would have the secondary locking element cooperating with the locking element via a link guide; as taught by Mosch et al with reference to the upper curved notch of the secondary locking element (14) shown in figure 1.

Re claim 43, the guide device of Marinelli as modified by Mosch et al would have the secondary locking element formed by a pivotally mounted locking lever.

Claim 54 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schrom. Schrom discloses the recess (35) forming the locking section comprises a curved region for a play-free reception of the guide section (26, 15), but fails to teach the recess comprising a tapered region. However, the specific shape of the recess is considered a matter of design choice since the disclosed curved region and the claimed tapered region both yield the predictable result of a play-free engagement and locking of the guide section for rattle-free use of the guide device. Thus, it would have been obvious

to a person of ordinary skill in the art to try a tapered region in the recess in order to achieve the predictable result of rattle-free locking, as a person with ordinary skill has good reason to pursue the known options within his or her technical grasp.

Allowable Subject Matter

Claim 42 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not show or suggest, either singly or combined, the guide device as claimed wherein the secondary locking element is engaged with the locking element in a play-bound manner in order to provide a play-free locking of the guide section. The device of Marinelli as modified by Mosch et al teach tolerance equalization regarding the elements locking the guide section and a play-free locking of the guide section, with reference to Marinelli's bushings (18, 19) and nut (14), but they fail to teach a play-bound engagement between the locking elements when the locking element is in its locking position.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania Abraham whose telephone number is 571-272-2635. The examiner can normally be reached on Monday - Friday, 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. A./
Examiner, Art Unit 3636
January 27, 2009

/DAVID DUNN/
Supervisory Patent Examiner, Art Unit 3636